



POSTAL REGULATORY COMMISSION

39 CFR Parts 3035, 3050, and 3060

[Docket No. PI2023-3; Order No. 6471]

RIN 3211-AA36

Postal Costing

AGENCY: Postal Regulatory Commission.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: Due to recent legislation, the Commission is initiating a review of regulations that relate to postal cost attribution in order to determine whether any revisions to those regulations, or to any analytical principles (including any costing methodologies or cost models) used in postal cost attribution, are appropriate. The Commission takes certain administrative steps and invites public comment.

DATES: *Comments are due:* June 14, 2023; *Reply Comments are due:* July 14, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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I. Background

The PSRA, enacted on April 6, 2022, amended Title 39 of the United States Code and other relevant statutory provisions. Among other changes, section 203 of the PSRA added a note to 39 U.S.C. 3633, which requires that the Commission, no later than April 6, 2023, “initiate a review of the regulations issued pursuant to sections 3633(a) and 3652(a)(1) of title 39, United States Code, to determine whether revisions are appropriate to ensure that all direct and indirect costs attributable to competitive and market-dominant products are properly attributed to those products, including by considering the underlying methodologies in determining cost attribution and considering options to revise such methodologies.” PSRA section 203. Section 203 also specifies that, if, after notice and public comment, the Commission determines “that revisions are appropriate, the Commission shall make modifications or adopt alternative methodologies as necessary.” *See id.*

The Postal Service uses a two-tier costing system to categorize its accrued costs. The Postal Service first identifies all costs that can be reliably and causally linked to individual postal products or groups of products, using Commission-approved analytical principles, and attributes those costs to products or product groupings. All remaining costs are classified as institutional. This two-tier postal costing approach, which is deeply rooted in the Postal Service’s historical treatment of costs,¹ has been adopted into Title 39 of the

¹ In implementing the Postal Reorganization Act, Pub. L. 91-375, 84 Stat. 719 (1970), the former Postal Rate Commission developed the two-tier approach to costing. That approach was upheld by the Supreme Court of the United States. *See Nat’l Ass’n of Greeting Card Publishers v. U.S. Postal Serv.*, 462 U.S. 810, 833 (1983) (specifically rejecting the imposition of an

United States Code.² Specifically, Sections 3631(b) and 3622(c) of Title 39 of the United States Code expressly codify “reliably identified causal relationships” as the standard for cost attribution. A detailed description of the approach to postal cost attribution currently employed by the Postal Service and the Commission appears in Docket Nos. RM2017-1 and RM2022-2.³

Since the enactment of the Postal Accountability and Enhancement Act (PAEA) and the Commission’s subsequent promulgation of regulations,⁴ the Postal Service has improved the information used as the basis for cost attribution by changing or upgrading numerous data systems and updating and improving special cost studies. As a result, the Commission has presided over numerous rulemakings that have affected cost attribution.

Cost attribution can be affected in major or minor ways through Commission proceedings that involve changes in “analytical principles.” Analytical principles refer to economic, mathematical, or statistical theories, precepts, or assumptions applied by the Postal Service in producing required periodic reports. See 39 CFR 3050.1(c). Analytical principles include, but are not limited to, costing methodologies and cost models that the Postal Service relies upon to generate cost-related data. The Commission has presided over

intermediary tier of costs, based on extended inferences of causation, between attributable and institutional costs).

² Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3201, 3205 (2006); 39 U.S.C. 3622(c)(2), 3631(b); see also S. Rep. No. 108-318, at 9-10 (2004). The enactment of the PSRA did not disturb this two-tier approach. See Docket Nos. RM2017-1 and RM2022-2, Order Finalizing Rule Relating to the Institutional Cost Contribution Requirement for Competitive Products, January 9, 2023, at 37 n.40 (Order No. 6399).

³ Supplemental Notice of Proposed Rulemaking and Order Initiating the Third Review of the Institutional Cost Contribution Requirement for Competitive Products, November 18, 2021, at 11-35 (Order No. 6043).

⁴ See *generally* Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

many such proceedings to change accepted analytical principles since the PAEA was enacted.

II. Invitation to Comment

The Commission invites interested persons to comment on regulations related to Postal Service cost attribution, as well as the analytical principles (including costing methodologies or cost models) underlying postal cost attribution. Comments should focus on whether revisions to any regulations or analytical principles are necessary “to ensure that all direct and indirect costs attributable to competitive and market-dominant products are properly attributed to those products....” PSRA section 203. Commenters are reminded that the scope of this docket is focused on regulations and analytical principles pertaining to cost attribution.

III. Administrative Actions

Pursuant to section 203 of the PSRA, the Commission establishes Docket No. PI2023-2 in order to review regulations issued pursuant to 39 U.S.C. 3633(a) and 3652(a)(1) relevant to the issue of postal cost attribution, as well as analytical principles (including costing methodologies or cost models) relevant to postal cost attribution. The Commission intends to evaluate the comments received and use those suggestions to help carry out the responsibilities described in section 203 of the PSRA. Comments are due no later than June 14, 2023. Reply comments are due no later than July 14, 2023.

Comments and other material filed in this proceeding will be available for review on the Commission’s website unless the information contained therein is subject to an application for non-public treatment. The Commission’s rules on non-public materials (including access to documents filed under seal) appear in 39 CFR part 3011.

Pursuant to 39 U.S.C. 505, the Commission appoints Katalin K. Clendenin to represent the interests of the general public (Public Representative) in this proceeding.

By the Commission.

Mallory Richards,

Attorney-Advisor.

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